



PLEASE RESPOND TO THE DALLAS OFFICE

June 23, 2014

Via ECF

The Honorable Madeline C. Arleo
 United States Magistrate Judge
 U.S. District Court for the District of New Jersey
 Martin Luther King, Jr. Federal Building
 & U.S. Courthouse
 50 Walnut Street
 Newark, NJ 07102

Re: Re: *In Re: Zimmer Durom Hip Cup Products Liability Litigation*

Dear Judge Arleo:

Please accept this letter as a joint submission from Plaintiffs and Defendant on the issue of the selection of the order of the first two MDL cases to be tried. The parties have worked diligently together to complete initial case specific discovery on eight cases (four selected by plaintiffs and four selected by Zimmer) and to reach an agreement on the first two trial selections in the MDL. The parties have reached an agreement on which cases will be selected for the initial trial settings.

Plaintiffs have chosen Christine Brady and Defendants have chosen Mary Ann Ruttenbur. This leaves only two questions for the Court to answer and the parties are hopeful that the Court will answer these questions at this week's hearing on June 26, 2014, or as soon thereafter as the Court's schedule will permit.

First, which case should be tried first? Plaintiffs believe the Brady case should be tried first and Zimmer believes that Ruttenbur should be tried first. Thus, the parties ask the Court to decide in which order the Brady and Ruttenbur cases will be tried.

Second, plaintiffs would like to raise an issue relating to the implanting surgeon for Ms. Ruttenbur, Dr. Aaron Hoffman. Ms. Ruttenbur's revision surgeon was deposed, but Dr. Hoffman has declined to provide a deposition in this case and his office has told Zimmer that he does not want to participate in any depositions. Zimmer believes the case can be tried without Dr. Hoffman's

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testimony and have declined to pursue his deposition. Plaintiffs believe it is entirely necessary to obtain testimony from such a key witness and believe that Dr. Hoffman must be subpoenaed and provide testimony in this action and that Zimmer must issue that subpoena. The parties have reached an impasse. The parties request the Court's guidance on this issue.

The parties agree that neither of these issues require formal briefing and hope to address these issues with the Court orally at this week's hearing or as soon thereafter as is convenient for the Court. Thank you in advance for your prompt attention to these matters.

Regards,



Kyla G. Cole

/kgc

cc: Andrew Campbell – Via ECF
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